

REGENTS BOARD[681]

Notice of Intended Action

**Proposing rule making related to compensation and probation
and providing an opportunity for public comment**

The Board of Regents hereby proposes to amend Chapter 3, “Regents Human Resources Management—Merit System Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 262.9(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 262.9(3).

Purpose and Summary

The proposed amendments to Chapter 3 update language for clarification and add an emergency pay practice.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 681—19.18(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 6, 2021. Comments should be directed to:

Aimee Claeys
Board of Regents
11260 Aurora Avenue
Urbandale, Iowa 50322
Phone: 515.281.6456
Email: aimee.claeys@iowaregents.edu

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of "Premium pay" in rule **681—3.14(8A)**:

"Premium pay" means a sum of money paid for specific work in addition to the salary or hourly rate.

ITEM 2. Amend rule **681—3.14(8A)**, definition of "Probationary period," as follows:

"Probationary period" is a six-month period to determine an employee's fitness for the position. A probationary period is required for an original appointment, ~~reinstatement~~, or reemployment to a classification not previously held, promotion, voluntary demotion out of series or lateral transfer out of classification. Employees hired on term appointments, as defined by rule 681—3.85(8A), are also subject to a probationary period.

ITEM 3. Amend rule 681—3.39(8A) as follows:

681—3.39(8A) Administration of the pay plan. Within the provisions of these rules, the pay plan will be uniformly administered by the resident directors under the direction of the merit system director for all classifications in the system. Except as otherwise provided in these rules and in the pay plan, all employees will be paid between the minimum and maximum of the pay grade to which the employee's classification is assigned and such pay will constitute the total cash remuneration the employee receives for the employee's work in that position. Any employee who is approved for participation in a phased retirement program as provided for by state law and regent policy shall have the salary provided under these rules adjusted as specified by such law and regent policy. In instances where more than one rule for pay is applicable, the resident director may apply the rule that is most appropriate for the situation.

3.39(1) Entrance salaries. The entrance salary for an employee in any position under this system will be the minimum salary of the pay grade to which that classification is assigned or in accordance with the approved pay plan, except as provided for the following:

a. Appointment based on a scarcity of qualified applicants. At the request of an institution and on the basis of economic or employment conditions which make it difficult or impossible to recruit at the minimum rate of the pay grade to which a classification of position is assigned, a resident director, subject to approval by the merit system director, may authorize for a designated period of time recruitment for that classification at a rate higher than the minimum. Where such a higher entrance rate is authorized all employees in the same classification and in the same geographical area, who are earning less than the higher entrance rate, will be increased to that higher rate.

b. Appointment based on exceptional qualifications. Employees whose qualifications substantially exceed the minimum required for the classification or who possess outstanding experience relative to the demands of the position may, at the request of an employing department and upon approval by the resident director, be appointed at a rate higher than the minimum, provided that the pay of all other employees in the same classification ~~as defined in 3.104(4) "e"~~ with similar qualifications working under the same conditions as defined in 3.104(4) "h" at the same institution are raised to that higher rate. These appointments along with any salary adjustments required of other employees other than the appointee must be reported to the merit system director.

Increases authorized and granted to other employees as the result of appointments based on the scarcity of qualified applicants, 3.39(1) "a," or appointments based on exceptional qualifications, 3.39(1) "b," will establish new merit review dates for affected employees. In the event that a substantial inequity is created due to a change to a merit review date, the resident director may determine that no change should be made to the merit review date or that an alternate merit review date should be established.

c. *Appointments based on prior service at the institution.* Employees who were employed by an appointing institution in a nonmerit system position and who performed duties of the same character and responsibility as the merit classification to which they are being appointed may be paid at a rate higher than the minimum reflecting prior service in a comparable position. Such appointments must be approved by the resident director and reported to the merit system director.

3.39(2) and 3.39(3) No change.

3.39(4) *Pay on demotion.* Upon recommendation by the department head, and with the prior approval of the resident director, the pay of an employee who is demoted will be set at any rate within the new pay grade that does not exceed the rate at which the employee was paid in the position from which the employee was demoted except as provided in 3.39(1) "b." Minimum increase eligibility period will not change.

If the salary of an employee who is demoted as the result of the reclassification of the employee's position exceeds the maximum salary of the pay range to which the new classification is assigned, at the discretion of the employing department and with the approval of the resident director, the salary may be "red-circled" for a period not to exceed one year. The resident director may request an extension be approved by the merit system director due to extraordinary special circumstances for a designated period of time.

If an employee accepts voluntary demotion in lieu of layoff, the salary shall be retained providing funding is available. In no event will the salary exceed the maximum of the new pay grade.

3.39(5) *Pay on reinstatement, reemployment or return from leave.*

a. An employee who is reinstated will be paid at a rate no greater than what the employee was last paid, plus any across-the-board increases that would have occurred during the time of nonemployment, and between the minimum and maximum of the pay grade. An employee who is returned to a merit system position from a professional position, will be paid in accordance with subrule 3.39(4), pay on demotion. The date of reinstatement will be the merit review date.

b. An employee who is reemployed to the previously occupied class will be paid at a rate no greater than what the employee was last paid, plus any across-the-board increases that would have occurred during the time of nonemployment, and between the minimum and maximum of the pay grade. When a merit increase has been granted to an employee in a position taken through voluntary demotion in lieu of layoff and the merit increase results in a higher rate of pay than last paid to the employee prior to the voluntary demotion in lieu of layoff, the employee may be reemployed to the previously occupied class with the higher rate of pay. Reemployment to the previously occupied class from a position taken as a voluntary demotion in lieu of layoff will not be considered a promotion. The merit review date will not change as a result of the voluntary demotion in lieu of layoff, nor as a result of reemployment to the previously occupied class from a position taken as a voluntary demotion in lieu of layoff.

c. An employee who is reappointed to the previously occupied position or a position in the same class on conclusion of a leave without pay will be paid in accordance with the provisions concerning pay on reemployment as provided above.

3.39(6) to 3.39(9) No change.

3.39(10) *Pay for exceptional performance.* An employee may be given pay for exceptional performance, not to exceed 5 10 percent of an employee's current annual salary, at the written request of the employee's department head with appropriate administrative approval and the prior approval of the resident director. The request will describe the nature of the exceptional job performance for which additional pay is requested, indicate the amount proposed, and specify the source of funds. The award may be based on sustained superior performance or an exceptional achievement or contribution during the period since the employee's last performance review. To qualify for an exceptional performance award, an employee must have a cumulative performance evaluation exceeding standards and have no individual rating below satisfactory. Payment will be made as a lump sum award and will not change the employee's established salary rate. An employee will be eligible to receive multiple rewards per fiscal year but not to cumulatively exceed 5 10 percent of the employee's current annual salary.

3.39(11) to 3.39(14) No change.

3.39(15) Discretionary pay increases for permanent employees. Permanent employees paid within the designated pay grade may be eligible for a discretionary increase to their present base pay as a result of a market analysis, equity analysis, employment offer or other employment situation. In no circumstance will the adjustment result in pay above the maximum of the pay grade. A resident director shall present the rationale for a discretionary pay increase to the merit system director for approval ~~by the merit system director.~~

3.39(16) Payment of a shift differential. All employees will be paid a shift differential for any shift of which four or more hours occur between 6 p.m. and midnight and a shift differential for any shift of which four or more hours occur between midnight and 6 a.m. The amount of the shift differential paid shall be determined by the merit system director and may vary between or within institutions based on geographical or market differences.

3.39(17) to 3.39(19) No change.

3.39(20) Emergency payments. When a state of emergency has been declared to exist at an institution, an employee may be given emergency pay at the written request of the employee's department head with appropriate administrative approval and the prior approval of the merit system director and executive director. The request will describe the nature of the state of emergency, the services provided by the employee in support of the management of or response to the state of emergency, the amount proposed, and the source of funds. Payment will be made as a lump sum award and will not change the employee's established salary rate.

This rule is intended to implement Iowa Code section 8A.413.

ITEM 4. Amend rule 681—3.85(8A) as follows:

681—3.85(8A) Term appointment. When it is known that a particular job, project, grant or contract will require the services of an employee for a limited duration or where funding must be renewed periodically, a term appointment may be made. The initial appointment will not be made for more than one year. Renewals beyond one year may be approved by the resident director on the basis of funding availability or institutional limits on term appointments.

Employees on a term appointment are subject to a probationary period. An employee on term appointment subsequently hired as a regular employee in the same classification is not required to complete an additional probationary period.

Such appointments will not confer to the individual any right of position, transfer, demotion, promotion, or recall, but incumbents shall be eligible for vacation and sick leave, except that a term appointment made for less than 780 hours will be considered a temporary appointment under rule 681—3.82(8A) without conferring rights or eligibility for vacation or sick leave.

This rule is intended to implement Iowa Code section 8A.413(9).